

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23/11/2004

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA
AND
THE HONOURABLE MR. JUSTICE C. NAGAPPAN

W.P.No.10320 OF 2001

The Secretary to Government,
Public Works (E1) Department,
Secretariat,
Chennai 600 009. .. Petitioner

-Vs-

1. A. Subramani,
Assistant Engineer,
Public Works Department P & D Circle,
Trichy (Under Suspension)

2. The Registrar,
Tamil Nadu Administrative Tribunal,
Chennai 104. .. Respondents

Petition filed under Article 226 of the Constitution of India for
the issuance of Writ of Certiorari as stated therein.

For Petitioner : Mr.K. Mahendran
Special Govt. Pleader

For Respondent-1 : Mr.S. Ravi

:ORDER

(The order of the Court was made by P.K. MISRA, J)

Heard Mr.K. Mahendran, Special Government Pleader for the petitioner
and Mr. S. Ravi for Respondent No.1.

2. The present writ petition is filed by the Secretary to the
Government, Public Works Department challenging the order passed by the Tamil
Nadu Administrative Tribunal.

3. The first respondent, who was working under the petitioner, had

filed the O.A. before the Tribunal challenging the order of suspension. Such order of suspension has been passed on the ground that investigation in a criminal case registered under Sections 167, 409, 420 of IPC and Section 13(2) read with 13(1)(c) and (d) of Prevention of Corruption Act, 1988 was pending.

4. The Tribunal has quashed the order of suspension mainly on the ground that the criminal case related to an incident which occurred during the year 1993-94 and no categorical material had been placed indicating as to when the investigation in the said criminal case would be completed. In other words, the order of suspension was quashed mainly on the ground that there was long delay in the matter relating to finalisation of the criminal case.

5. Learned counsel appearing for the petitioner has placed reliance upon the decision of the Supreme Court reported in (1997) 4 SCC 1 ([YALLAHABAD BANK AND ANOTHER v. DEEPAK KUMAR BHOLA) as well as the subsequent decision of the Supreme Court in 2003(5) Supreme 208 (UNION OF INDIA v. RAJIV KUMAR). In the latter decision, it was observed : 29. Another plea raised relates to a suspension for a very long period. It is submitted that the same renders the suspension invalid. The plea is clearly untenable. The period of suspension should not be unnecessarily prolonged but if plausible reasons exist and the authorities feel that the suspension needs to be continued, merely because it is for a long period that does not invalidate the suspension.

6. In view of the aforesaid observation and also in view of the ratio of the decision in (1997) 4 SCC 1 (cited supra), there is no escape from the conclusion that mere delay in finalisation of the investigation in a criminal case is not a ground on which a Tribunal or the High Court can quash the order of suspension. In such view of the matter, the order passed by the Tribunal quashing the order of suspension merely on the ground that there was no definite indication as to when the investigation would be completed, cannot be sustained.

7. In course of hearing of the writ petition it transpired that in the meantime investigation had been completed and final form had been filed during last week, but the criminal case is not taken on file yet and therefore, the trial is not likely to be concluded in near future. Whether under such circumstances, the order of suspension is to be revoked or not is to be considered by the appropriate authority under Rule 17(e) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules.

8. Therefore, while allowing the writ petition and quashing the order of the Tribunal, we call upon the appropriate authority to consider the question as to whether the order of suspension should continue further or not and as to whether the persons involved can be reinstated keeping in view the observation made by the Supreme Court in paragraph 29 of the latter decision and the provisions contained in Rule 17 (e) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules. Such exercise should be completed within a period of three weeks from the date of receipt of a copy of this order.

9. Subject to the aforesaid observations and the directions,
the writ petition is accordingly disposed of. No costs.

Index : Yes

Internet: Yes

To

1. The Registrar,
Tamil Nadu Administrative Tribunal,
Chennai 104.

2. The Secretary to Government,
Public Works (E1) Department, Secretariat,
Chennai 600 009.

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